

1 ERIC D. HOUSER #130079
2 BRYAN P. REGAN # 256879
3 HOUSER & ALLISON
4 A Professional Corporation
5 Carlsbad Pacific Center 1
6 701 Palomar Airport Road, Suite 200
7 Carlsbad, California 92011
8 Telephone: (760) 603-9664
9 Facsimile: (760) 603-9668
10 E-Mail: bregan@houser-law.com

11 Attorneys for Defendant, Ocwen Loan Servicing, LLC, and Ocwen Financial Corporation

12
13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 CHAUNTEL RAMPP,

16 Case No. 3:11-cv-03017-BTM-NLS

17 Plaintiff

18 Hon. Barry Ted Moskowitz

19 v.

20 OCWEN FINANCIAL CORPORATION,
21 AND DOES 1 THROUGH 20;
22 Defendants.

23 **REQUEST FOR JUDICIAL NOTICE IN
24 SUPPORT OF DEFENDANTS' MOTION
25 TO DISMISS PLAINTIFF'S SECOND
26 AMENDED COMPLAINT AND
27 DECLARATION OF BRYAN P. REGAN
28 IN SUPPORT THEREOF**

19 Pursuant to *Evidence Code* §§451 and 452, **PLEASE TAKE NOTICE** that Defendants,
20 OCWEN LOAN SERVICING, LLC ("OLS") and OCWEN FINANCIAL CORPORATION
21 ("Defendant") (OLS and Defendant collectively are "Defendants"), submit the following
22 Request for Judicial Notice in support of its Motion to Dismiss Plaintiff's Second Amended
23 Complaint. The following documents are officially recorded public documents maintained by a
24 county government agency, the date of when recorded and the contents contained therein at the
25 time of recording, are facts not reasonably subject to dispute and capable of immediate and
26 accurate determination by resort to sources of reasonably indisputable accuracy. This Court may
27 take judicial notice of various recorded documents including documents related to deeds of trust

1 securing a promissory note. *See Poseidon Development, Inc. v. Woodland Lane Estates, LLC*,
 2 152 Cal.App.4th 1106, 1116-1117 (2007).

3 Additionally, the Court may take judicial notice of documents which are central to
 4 Plaintiff's claims. *See, Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994); *United States v.*
 5 *Ritchie*, 342 F.3d 903, 907 (9th Cir. 2003). Finally, *Evidence Code* §452(d) specifies that judicial
 6 notice may be taken of “[r]ecords of (1) any court of this state or (2) any court of record of the
 7 United States or of any state of the United States.” Accordingly, Defendant Ocwen respectfully
 8 requests that the Court take judicial notice of the following documents:

9 1. Attached hereto as **Exhibit 1** is a true and correct copy of the Deed of Trust
 10 (“DOT”) (recorded as instrument #2005-0787005 in the Official Records of San Diego County
 11 September 12, 2005) in the amount of \$400,000.00 (“Loan #1”) which was secured by real
 12 property located at **244 Avalon Drive, Vista, California 92084** (the “Property”). The DOT
 13 identifies Fremont Investment & Loan (“Fremont”) as the lender, Plaintiff and her ex-husband as
 14 the Borrowers, Fremont General Credit Corporation (“Fremont Credit”) as the trustee, and
 15 Mortgage Electronic Registration Services (“MERS”) as the beneficiary and nominee for the
 16 lender.

17 2. Attached hereto as **Exhibit 2** is a true and correct copy of the second DOT
 18 (“Second DOT”) (recorded as instrument #2005-0787006 in the Official Records of San Diego
 19 County on September 12, 2005) in the amount of \$100,000.00 (“Loan #2”) which was secured
 20 by the Property. The Second DOT identifies Fremont as the lender, Plaintiff and her ex-husband
 21 as the Borrowers, Fremont Credit as the trustee, and MERS as the beneficiary and nominee for
 22 the lender.

23 3. Attached hereto as **Exhibit 3** is a true and correct copy of the Notice of Default
 24 recorded against the Property on January 22, 2009 indicating Plaintiff was \$18,956.41 in arrears
 25 pursuant to their obligations under the DOT (Loan #1). The Notice of Default was recorded as
 26 instrument #2009-0029017 in the Official Records of San Diego County on January 22, 2009.

1 4. Attached hereto as **Exhibit 4** is a true and correct copy of the Substitution of
2 Trustee whereby Quality Loan Services Corporation substituted in as trustee of the loan on
3 January 29, 2009. This Substitution of Trustee was recorded in the Official records of the
4 County of San Diego on March 5, 2009 as document # 2009-0110177.

5 5. Attached hereto as **Exhibit 5** is a true and correct copy of the Assignment of the
6 DOT filed on February 18, 2011 whereby the beneficial interest under the DOT (Loan #1) was
7 assigned to HSBC Bank USA, National Association, As Trustee for the Benefit of the
8 Certificateholders of Nomura Home Equity Loan, Inc. Asset-Backed Certificates, Series 2006-
9 FM1 (“HSBC Bank as Trustee”). The Assignment was recorded in the Official records of the
10 County of San Diego on March 5, 2009 as document # 2009-0110500.

11 6. Attached hereto as **Exhibit 6** is a true and correct copy of the case docket for this
12 matter filed in the U.S. District Court, Southern District of California, bearing case number 3:11-
13 cv-03017-BTM-NLS.

14 7. Attached hereto as **Exhibit 7** is a true and correct copy of the Court's July 23,
15 2012 Order on Defendant's Motion to Dismiss Plaintiff's FAC and Preliminary Injunction
16 Motion (the "Order").

17 | DATED: August 24, 2012

HOUSER & ALLISON
A Professional Corporation

/s/ Bryan P. Regan
ERIC D. HOUSER
BRYAN P. REGAN
Attorneys for Defendants,
Ocwen Loan Servicing, LLC and Ocwen
Financial Corporation

DECLARATION OF BRYAN P. REGAN

I, Bryan P. Regan, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and before this Court. I am an attorney with the law firm of HOUSER & ALLISON, a Professional Corporation, and counsel of record for Defendants, OCWEN LOAN SERVICING, LLC and OCWEN FINANCIAL CORPORATION. Based on the foregoing, I have personal knowledge of the facts set forth below, and if called upon to testify thereto, I could and would do so competently and truthfully.

2. This Declaration is made in support of Defendants' Request for Judicial Notice and to authenticate the documents of which judicial notice is requested.

3. I attached to the Request for Judicial Notice as **Exhibit 1** a true and correct copy of the Deed of Trust (“DOT”) (recorded as instrument #2005-0787005 in the Official Records of San Diego County September 12, 2005) in the amount of \$400,000.00 (“Loan #1”) which was secured by real property located at **244 Avalon Drive, Vista, California 92084** (the “Property”). The DOT identifies Fremont Investment & Loan (“Fremont”) as the lender, Plaintiff and her ex-husband as the Borrowers, Fremont General Credit Corporation (“Fremont Credit”) as the trustee, and Mortgage Electronic Registration Services (“MERS”) as the beneficiary and nominee for the lender. The copy of the Deed of Trust was obtained from the San Diego County Recorder’s Office and I have not altered it in any way.

4. I attached to the Request for Judicial Notice as **Exhibit 2** a true and correct copy of the second DOT (“Second DOT”) (recorded as instrument #2005-0787006 in the Official Records of San Diego County on September 12, 2005) in the amount of \$100,000.00 (“Loan #2”) which was secured by the Property. The Second DOT identifies Fremont as the lender, Plaintiff and her ex-husband as the Borrowers, Fremont Credit as the trustee, and MERS as the beneficiary and nominee for the lender. The copy of the Second Deed of Trust was obtained from the San Diego County Recorder’s Office and I have not altered it in any way.

5. I attached to the Request for Judicial Notice as **Exhibit 3** a true and correct copy of the Notice of Default recorded against the Property on January 22, 2009 indicating Plaintiff

1 was \$18,956.41 in arrears pursuant to their obligations under the DOT (Loan #1). The Notice of
2 Default was recorded as instrument #2009-0029017 in the Official Records of San Diego County
3 on January 22, 2009. The copy of the Notice of Default was obtained from the San Diego
4 County Recorder's Office and I have not altered it in any way.

5 6. I attached to the Request for Judicial Notice as **Exhibit 4** a true and correct copy
6 of the Substitution of Trustee whereby Quality Loan Services Corporation substituted in as
7 trustee of the loan on January 29, 2009. This Substitution of Trustee was recorded in the Official
8 records of the County of San Diego on March 5, 2009 as document # 2009-0110177. The copy
9 of the Substitution of Trustee was obtained from the San Diego County Recorder's Office and I
10 have not altered it in any way.

11 7. I attached to the Request for Judicial Notice as **Exhibit 5** a true and correct copy
12 of the Assignment of the DOT filed on February 18, 2011 whereby the beneficial interest under
13 the DOT (Loan #1) was assigned to HSBC Bank USA, National Association, As Trustee for the
14 Benefit of the Certificateholders of Nomura Home Equity Loan, Inc. Asset-Backed Certificates,
15 Series 2006-FM1 (“HSBC Bank as Trustee”). The Assignment was recorded in the Official
16 records of the County of San Diego on March 5, 2009 as document # 2009-0110500. The copy
17 of the Assignment of the DOT was obtained from the San Diego County Recorder’s Office and I
18 have not altered it in any way.

19 8. I attached to the Request for Judicial Notice as **Exhibit 6** a true and correct copy
20 of the case docket for this matter filed in the U.S. District Court, Southern District of California,
21 bearing case number 3:11-cv-03017-BTM-NLS. The copy of the Case Docket was obtained
22 from the Federal District Court website, PACER, and I have not altered it in any way.

23 9. I attached to the Request for Judicial Notice as **Exhibit 7** a true and correct copy
24 of the Court's July 23, 2012 Order on Defendant's Motion to Dismiss Plaintiff's FAC and
Preliminary Injunction Motion (the "Order").

/s/ Bryan P. Regan
BRYAN P. REGAN

PROOF OF SERVICE

STATE OF CALIFORNIA)
) SS
COUNTY OF SAN DIEGO)

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 701 Palomar Airport Drive, Suite 200 Carlsbad, California 92011

On August 24, 2012, I served the following document(s) described as follows:

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANTS' MOTION TO
DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT**

On the following interested parties in this action:

Joseph J. Rego, Esq. (SBN:163183)
Law Office of Joseph Rego
3443 Camino Del Rio S., Ste. 300
San Diego, CA 92108

BY ELECTRONIC MAIL: I transmitted the document(s) listed above electronically either by e-mail or by electronic filing through the CM/ECF system to the e-mail addresses listed above. I am readily familiar with firm's Microsoft Outlook e-mail system and the United States District Court's CM/ECF System, and the transmission was reported as complete, without error.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on **August 24, 2012** at Carlsbad, California.

/s/ Bryan P. Regan